

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA :

Plaintiff,

Case No. 3:12-po-162

-VS-

Magistrate Judge Michael R. Merz

:

CERIA BROWN,

Defendant.

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**DECISION AND ORDER**

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This case is before the Court on Plaintiff's Motion for Clarification on Prior Conviction (Doc. No. 3).

Having considered the Motion, the Court determines it would be improper to decide the issues presented because such a decision would be an advisory opinion. Although defendant has been charged, she has not yet been served with process in the case and therefore there is not an adverse litigant to the Government. In the absence of an adverse litigant, the Court may not render a decision. Accordingly, the Motion is denied as non-justiciable.

The Court notes for the Government's consideration that announcing a possible sentence in minor misdemeanor cases which would enhance the penalty to include a possible jail sentence would trigger a defendant's right to counsel under the Sixth Amendment. See *Argersinger v. Hamlin*, 407 U.S. 25 (1972); *Alabama v. Shelton*, 535 U.S. 654 (2002).

November 16, 2012.

s/ *Michael R. Merz*  
United States Magistrate Judge